

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JOSE CORREA VILLACIS

Plaintiff,

v.

PERFORMANCE TRANSPORTATION, LLC, *et al.*,

Defendants.

Civil Action No.:

NOTICE OF REMOVAL

Defendants, Performance Transportation, LLC and Thomas Leon Love (“Defendants”), by undersigned counsel, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal of this action from the Circuit Court for Montgomery County, Maryland, in which it is now pending, to the United States District Court for the District of Maryland, on the following grounds:

1. Defendants have been named in a lawsuit filed in the Circuit Court for Montgomery County, Maryland, captioned *Jose Correa Villacis v. Performance Transportation, LLC, et al.*, Case No. 486373-V.
2. Defendants have filed an Answer to Complaint in the Circuit Court and hereby remove the case to this Court.
3. The matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.
4. According to the Complaint, the Plaintiff resides at 13716 Marianna Drive, Rockville, Maryland 20853. It is presumed, therefore, that for purposes of diversity jurisdiction, the Plaintiff is a citizen of Maryland.

5. Defendant Thomas Leon Love is a resident of Georgia. He was served with the Summons and Complaint on July 21, 2021. For purposes of diversity jurisdiction, Mr. Love is a citizen of Georgia.

6. Performance Transportation, LLC was served with the Summons and Complaint on July 16, 2021. Performance Transportation, LLC is a Delaware limited liability with a principal place of business in Virginia. Its members are Performance Food Group, Inc. and PFST Holding Co. Performance Food Group, Inc. is a Colorado corporation with a principal place of business in Virginia. PFST Holding Co. is a Delaware corporation with a principal place of business in Virginia. For purposes of diversity jurisdiction, Performance Transportation, LLC is considered a citizen of Virginia, Delaware and Colorado. *See Haak Motors LLC v. Arangio*, 670 F. Supp. 2d 430, 432 n1 (D. Md. 2009) (“Unlike corporations -- whose citizenship is determined by state of incorporation and principal place of business -- limited liability companies (‘LLCs’) and limited liability partnerships (‘LLPs’) are assigned the citizenship of their partners or members.”) (internal citations omitted); *C. W. Virginia Energy Co., Inc. v. Mt. State Carbon, LLC*, 636 F.3d 101, 103 (4th Cir. 2011) (“For purposes of diversity jurisdiction, the citizenship of a limited liability company ... is determined by the citizenship of all of its members ...”) (internal citation omitted).

7. This Notice of Removal is timely because it has been filed within the 30-day period prescribed by 28 U.S.C. § 1446(b).

8. This action may be removed to this Court on the grounds of diversity of citizenship, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. Complete diversity exists between the parties.

9. Filed herewith are a Certificate Upon Removal and Local Rule 103.5 Statement with copies of the Complaint filed in State Court as well as all process and pleadings currently in Defendants' possession.

WHEREFORE, Defendants respectfully request that this action be removed to the United States District Court for the District of Maryland; and that no further proceedings be had in the Circuit Court for Montgomery County, Maryland.

Respectfully submitted,

/s/ Thomas V. McCarron
Thomas V. McCarron (Bar No.: 08145)
tmccarron@semmes.com
James O. Spiker IV (Bar No.: 30189)
jspiker@semmes.com
Semmes, Bowen & Semmes
25 South Charles Street, 14th Floor
Baltimore, Maryland 21201
(410) 539-5040
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of August, 2021, a copy of the foregoing *Defendants'* *Notice of Removal* was mailed first-class, postage prepaid to:

Peter L. Scherr, Esquire
Futrovsky, Forster & Scherr, Chtd.
1101 Wootton Parkway, Suite 550
Rockville, MD 20852
plscherr@futrovsky.com
Attorneys for Plaintiff

/s/ Thomas V. McCarron
Thomas V. McCarron (Bar No.: 08145)